STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[redacted]

Reg. No: 201262050
Issue No: 1006, 3006
Case No: [redacted]
Hearing Date: February 6, 2014
Saginaw County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

Upon a hearing request by the Department of Human Services (Department) to establish an overissuance (OI) of benefits to Respondent, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 400.43a, and 24.201, *et seq.*, and Mich Admin Code, R 400.941, and in accordance with 7 CFR 273.15 to 273.18, 42 CFR 431. 200 to 431.250, 45 CFR 99.1 to 99.33, and 45 CFR 205.10. Following due notice mailed to Respondent at her last known address on file with the Department, which notice was not returned to the Michigan Administrative Hearing System as undeliverable mail, a telephone hearing was held on February 6, 2014 from Lansing, Michigan. Respondent did not appear. This matter having been initiated by the Department and due notice having been provided to Respondent, the hearing was held in Respondent's absence in accordance with Department of Human Services Bridges Administrative Manual (BAM) 725, pp. 13-17. The department was represented by [redacted] a recoupment specialist with the department's Saginaw County office.

ISSUE

Whether Respondent received an overissuance (OI) of Food Assistance Program (FAP) benefits and Family Independence Program (FIP) benefits that the Department is entitled to recoup?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Respondent was a recipient of FAP and FIP benefits at all times relevant to this matter.

2. On April 23, 2012, the Department discovered that, due to agency error, the department failed to budget Respondent's employment earnings for the months of September 2011 through May 2012, which employment Respondent had timely reported to the Department. (Department Exhibits 1-7)

3. Due to the Department's agency error, Respondent received an over issuance of FAP benefits in the amount of $ [redacted] for the period September 1, 2011 through May 31, 2012, and an over issuance of FIP benefits in the amount of $[redacted] for the period October 1, 2011 through May 31, 2012. (Department Exhibits 1-2)

4. On June 12, 2012, the Department mailed Respondent a written notice (DHS-4358-A) that she received an over issuance of FAP benefits in the amount of $[redacted] for the period September 1, 2011 through May 31, 2012, and an over issuance of FIP benefits in the amount of $[redacted] for the period October 1, 2011 through May 31, 2012 as a result of agency error.

5. On June 26, 2012, Claimant submitted a hearing request, protesting the department's determination that she must repay the FAP and FIP over-issuances.

6. A notice of debt collection hearing was mailed to Respondent at her last known address and was not returned by the United States Postal Service as undeliverable.

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Department of Human Services Bridges Administrative Manual (BAM) 600 (2011), p. 1. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in sections 400.901 to 400.951 of the Michigan Administrative Code (Mich Admin Code). An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. Mich Admin Code R 400.903(1).

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

All earned and unearned income available to the client is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family

Independence Program (FIP), S tate Disability Assistance (SDA), Child Dev elopment and Care (CDC), Medicaid (MA), Social Se curity Benefits (RSDI/SSI), Veterans Administration (VA), Unemploy ment Com pensation Benefits (UCB), Adult Medical Program (AMA), alimony, and c hild s upport payments. The amount counted may be more than the client actually receives becau se the gross amount is used prior to any deductions. BEM 500.

The Department determines a client's el igibility for program benefits based on the client's act ual inc ome and/or prospective in come. Actual income is income that w as already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid ever y other week, the Department multiplies the average bi-weekly amount by 2.15. BEM 505.

An over iss uance is the amount of benefits issued to the cli ent group in excess of what they were eligible to receive. BAM 705. The amount of the over issuance is the amount of benefits the group actually received minus the amount the group was eligible t o receive. BAM 720. When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the over issuance. BAM 700.

Department errors are caused by incorrect actions by the Department. BAM 705. Department error over issuances are not pursued if the estimated over issuance is less than $[redacted] per program. BAM 7 05. The agency error threshold was rais ed to $[redacted] from $[redacted] with an effective date of December 1, 2012. BAM 7 05. Client errors occur when the c ustomer gave incorrec t or incomplete information to the Department. Clien t errors are not establis hed if the over issuanc e is less than $[redacted] unless the client group is active for the over issuance program, or the over issuance is a result of a quality control audit finding. BAM 700.

In this case, Respondent was a recipient of FAP and FIP benefits and, due to agency error, she received an over issuance of FAP benefits in the amount of $[redacted] for the period September 1, 2011 thr ough May 31, 2012, and an over issuance of FIP benefits in the amount of $[redacted] for the period October 1, 2011 through May 31, 2012.

At the February 6, 2014 hearing, the Depar tment's representative, recoupment specialist, Rebecca Smalley, provided sufficient and undisput ed testimony and documentary evidence establishing that Res pondent accurately and timely reported her employment to the Department in ass istance applicati ons dat ed October 13, 2011, December 13, 2011, January 24 , 2012, March 5, 2012, and Ap ril 24, 2012. Howev er, due to agency error, the Department failed to properly budget Respondent's employment income, resulting in Respondent 's receipt of an over issuance of FAP benefits in the amount of $[redacted] for the period Sep tember 1, 2011 through May 31, 2012, and an over iss uance of FIP benefits in the am ount of $[redacted] for the period October 1, 2011 through May 31, 2012, for a total over issuance amount of $[redacted]

Testimony and other evidence must be we ighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of*

Community Health v Risch, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds, based on the competent, material, and substantial evidence presented during the February 6, 2014 hearing, the Department properly determined that Respondent received an over issuance of FAP benefits in the amount of $[redacted] for the period September 1, 2011 through May 31, 2012, and an over issuance of FIP benefits in the amount of $[redacted] for the period October 1, 2011 through May 31, 2012, for a total over issuance amount of $[redacted] which the department is required to recoup.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined that Respondent received an over issuance of FAP benefits in the amount of $[redacted] for the period September 1, 2011 through May 31, 2012, and an over issuance of FIP benefits in the amount of $[redacted] for the period October 1, 2011 through May 31, 2012, for a total over issuance amount of $[redacted] Accordingly, the department's recoupment of Respondent's over issuance of FAP and FIP benefits in the amount of $[redacted] is **UPHELD** and the Department is ORDERED to initiate collection procedures in this amount in accordance with Department policy.

It is **SO ORDERED.**

Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 7, 2014

Date Mailed: February 7, 2014

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CL/hj

cc: [redacted]